SUPREME COURT OF THE UNITED STATES.

No. ~~342~~. 303/23.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, AND JOHN A. THOMPSON, HENRY S. HUNT, AARON FENTON, AND JOHN DENISON, APPELLANTS,

vs.

THE CITY OF WHEELING.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

GOVERNMENT PRINTING OFFICE.

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1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable William F. Giles, judge of Maryland district; William Price, esquire, attorney; Washington Bonifant, esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

THE CITY OF WHEELING
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, the Baltimore and Ohio Railroad Company, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison.

Be it remembered that heretofore, to wit, on the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-two, the said city of Wheeling, by Reverdy Johnson and J. Mason Campbell, its solicitors, filed in the circuit court here its bill of complaint against the said mayor and city council of Baltimore, the Baltimore and Ohio Railroad Company, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, in the words and of the tenor following, to wit:

Bill of complaint.

To the honorable the judges of the circuit court of the United States for the Maryland district, sitting in equity:

2 The city of Wheeling, a municipal corporation, established and chartered by the State of Virginia, and situate therein, brings this its bill of complaint, qui tam, &c., against the mayor and city council of Baltimore, a municipal corporation established and chartered by the State of Maryland, and situate in said State, and against the Baltimore and Ohio Railroad Company, a body politic incorporated by the last-mentioned State, and having its principal office or place of business therein, and against John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, citizens of the said State of Maryland; and thereupon your orator complains, and says that the said Baltimore and Ohio Railroad Company was incorporated by the State of Maryland, by an act of the general assembly thereof, passed at December session, 1826, ch. 123, for which, and for the several supplements to the same, and the other acts hereinafter referred to, your orator refers to the statute book of Maryland, and prays that as far as necessary they may be deemed to be and

taken as part of this its bill; and that under and by virtue of said charter the said company came duly into existence, and has ever since continued to exist, and is now engaged in carrying the business and exercising the functions and powers so conceded to it.

That by the 2d section of the said original charter the said city of Baltimore was authorized to subscribe for 5,000 shares of stock in said corporation, and that, by a resolution of the mayor and city council of Baltimore, approved on the 20th of March, 1827, the mayor was authorized, in pursuance of said act, subscribed in the
3 name of the said mayor and city council for the said 5,000 shares, and did so subscribe.

That afterwards, by an act of the general assembly of Maryland, passed at December session, 1835, ch. 127, the said mayor and city council were authorized to subscribe for 30,000 shares of stock in said company, in addition to the subscription previously made by it and above mentioned and that, by a resolution, of the mayor and city council aforesaid, approved 17th March, 1836, the mayor was authorized, in pursuance of said last-mentioned act, to subscribe for the said additional 30,000 shares, and did so subscribe.

That the said 35,000 shares so authorized to be subscribed for by the acts aforesaid, are all the shares in said company which the said mayor and city council of Baltimore have subscribed for to the capital stock of said company, and that the said mayor and city council hold no other shares in the capital stock of said company, as subscribed for to it except the 35,000 shares aforesaid.

That on the 17th day of December, 1856, the said Baltimore and Ohio Railroad declared an extra dividend of 30 per cent. on the capital stock of the company, payable on or after the 12th January, 1857, to all stockholders holding stock on the 22d day of December, 1856, in certificates of indebtedness bearing an interest from the 1st day of June, 1857, of six per cent. per annum, payable half-yearly, on the 1st day of December and June in each year, until the 1st day of June, 1862, inclusive, after which last-mentioned date, by the terms of the resolution declaring said dividend, the said certificates of indebtedness should be converted into the stock of the said
4 company at par.

That the whole number of shares of stock in the said company on the 22d day of December, 1856, was 101,102, of which number, on that day, 59,246 shares were held by the private stockholders in said company; and that on the said last-mentioned day, the said mayor and city council of Baltimore held and owned no other stock in said company, except the 35,000 shares which had been subscribed for by them as aforesaid.

That the certificate for the portion of the extra dividend above mentioned, belonging to the said mayor and city council of Baltimore, for and in respect of its said 35,000 shares, was duly delivered to them, and the interest thereon paid up to the 1st day of June, 1862, inclusive, since which time, viz., on the 26th day of June, 1862, the said certificate has been converted, pursuant to its terms and the

tenor of the dividend resolution, into stock of the said company, amounting to one million and fifty thousand dollars; and that said stock was not subscribed for by the said mayor and city council, or acquired by it, in any other way than as hereinbefore detailed, viz., as the fruit and dividend of its 35,000 subscribed shares aforesaid.

That by the provisions of the 7th section of the original charter aforesaid, to continue the succession of the president and directors of said company, 12 directors were to be chosen annually by the stockholders of said company, and the city of Baltimore was to appoint one additional director of said company for every 2,500 shares of stock by it owned at the time of such election; and that in virtue of the subscription made by the city of Baltimore of the said 5,000 shares under said original charter, which was all that it could subscribe under the same, the said city, in the year 1827, appointed, and has ever since continued to appoint, 2 directors in said company.

That by the terms of the act of assembly, also hereinbefore mentioned, as passed in 1835, ch. 127, and authorizing a further subscription of 30,000 shares, the said city of Baltimore was empowered to appoint an additional director of said company for every five thousand shares of the stock of said company for which the said city might subscribe in pursuance of said act, and which should be owned by it at the time of the annual election of the president and directors of said company.

That in virtue of the subscription made by the said city for the said 30,000 additional shares, the said city, in the year 1836, appointed, and has ever since continued to appoint, 6 additional directors in said company, making, in conjunction with the 2 directors authorized by the original charter, the whole number of city directors to consist of eight.

That since the conversion of the said certificate into capital stock of said company, standing in the name of the mayor and city council of Baltimore, the said mayor and city council, in fraud of the charter and other legislation of the State of Maryland on the subject, and its own assent to such charter, and the act of 1835, have set up the pretension, which is wholly unfounded, that they are entitled to appoint an additional director in said company for every 2,500 shares embraced in the dividend stock acquired as aforesaid, and have publicly announced and declared such pretension and claim, and have proceeded, in pursuance of such groundless claim and pretension, to appoint directors accordingly, and on the 2d and 3d days of October, 1862, appointed as such directors the following persons, to wit: John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, of the city of Baltimore; and that such persons are instructed to take their seats at the board of directors of the Baltimore and Ohio Railroad Company at its next sitting, and at the sittings thereof to be held thereafter, and in all things to exercise the functions and powers of directors in said company; and that they mean to carry out such instructions, and to claim and exercise the office of such directors, in virtue of the pretended additional re-

presentation falsely and fraudulently asserted by the said city, under and by force of its acquisition and possession of said extra dividend stock.

That the private stock in said company held at the time of the extra dividend, and amounting, as above averred, to 59,246 shares, is not entitled to any additional representation in virtue of the dividend stock acquired under the dividend resolution aforesaid; and that no claim has been set up to any additional representation in virtue of such dividend stock, except by the mayor and city council aforesaid, and such claim on their part is a fraud on your orators, and the other private stockholders of said company, and is fraudulently made, and meant to deprive them, and if allowed and exercised, will deprive them, of their just and legal weight and relative power
7 in the administration of the affairs of said company.

That the said company in its corporate capacity has made no declaration, or taken any steps in denial of the pretensions aforesaid of the city of Baltimore, although respectfully requested to do so by your orator, which, through its counsel, addressed the president and directors of said company the two notes, of which copies, marked A, are herewith filed; to neither of which, though both were delivered, has any answer been made, and that your orator has reason to apprehend, and does apprehend and charge, that said company does not intend to institute any proceedings in the premises, but means to leave the private stockholders to defend themselves.

That it is advised that on the occasion of such a disagreement between themselves and one of their associates, the private stockholders are entitled to a hearing and decision on a case to be made by themselves, and not by the corporate body of which each is a part, and which, in regard to the present controversy, as it cannot represent both, in point of fact, represents neither of them.

That your orator and the other private stockholders have, as they are advised, no remedy at law for the assertion of their rights in the premises, and no power under their charter, and of and by themselves in general meeting or otherwise, to prevent or redress the injury so as aforesaid about to be inflicted upon them.

That your orator is a stockholder in the said Baltimore and Ohio Railroad Company, and owns 5,970 shares of stock therein, of the par value of $100 each; which shares stand upon the books of
8 the said corporation in the name of your orator.

That the whole number of shares of stock in said company is, it is informed and believes, 130,417, of which the private stockholders own and hold 76,005 shares, and that the number of private stockholders is between 600 and 700; and as it is impracticable to make them all parties, your orator institutes this bill on behalf of itself and all others of the private stockholders who, being entitled, shall come in and contribute to the cost of this proceeding.

In tender consideration whereof, and forasmuch as your orator is relievable only in equity, to the end, therefore, that the said mayor and city council of Baltimore, under its corporate seal and the oath of its mayor, and the said Baltimore and Ohio Railroad Com-

pany, under its corporate seal and oath of its president, and the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, upon their several and respective corporal oaths, may separate and several answers make to all and singular the premises, and that by this honorable court it may be adjudged, ordered, and decreed that the mayor and city council of Baltimore be perpetually enjoined from appointing any persons as directors of said Baltimore and Ohio Railroad Company, for or in behalf, or in virtue of the stock in said company acquired by them, as and for a dividend under the extra dividend resolution passed by said company on the 17th December, 1856, and that existing appointments of any persons
9 as such directors be annulled, and made and declared void, and that John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison be enjoined from taking their seats as directors at the board of the Baltimore and Ohio Railroad Company, or acting or claiming to act in any way as such directors by virtue of their appointment made by the mayor and city council of Baltimore on the 2d and 3d days of October, 1862; and that the said Baltimore and Ohio Railroad Company be perpetually enjoined from permitting or suffering the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, or any other persons, from taking seats at its board, or acting in any way as directors under any appointment made, or that may be made, by the mayor and city council of Baltimore, for or in behalf of, or in virtue of the stock in said company acquired by the said mayor and city council as and for a dividend under the extra dividend resolution passed by said company on the 17th day of December, 1856; and that your orator may have all such other and further relief as its case demands.

May it please your honors to grant unto your orator as well the writ of the United States of injunction to the said mayor and city council of Baltimore, to the Baltimore and Ohio Railroad Company, and to John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, to be directed commanding and enjoining them not only the said mayor and city council of Baltimore not to appoint any persons as directors of the Baltimore and Ohio Railroad Company for or in behalf or in virtue of the stock in said company acquired
10 by them as and for a dividend under the extra dividend resolution passed by said company on the 17th day of December, 1856, but also enjoining the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison from taking their seats as directors at the board of the Baltimore and Ohio Railroad Company, or acting or claiming to act in any way as such directors by virtue of their appointment made by the mayor and city council of Baltimore on the 2d and 3d days of October, 1862, and also commanding and enjoining the said Baltimore and Ohio Railroad Company from permitting or suffering the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, or any other persons, from taking seats at its board or acting as directors in any way under any appointment made or that may be made by the mayor and city council of Baltimore for or in behalf or in virtue of the stock in said company acquired by

said mayor and city council as and for a dividend under the extra dividend resolution passed by said company on the 17th day of December, 1856, as also the writ of the United States of subpœna to the mayor and city council of Baltimore, the Baltimore and Ohio Railroad Company, John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, to be directed commanding them, &c.

A. J. SWEENEY, *Mayor.*

[Corporate seal.]

REVERDY JOHNSON,
J. MASON CAMPBELL,
Compl't's Solicitors.

11 WESTERN DISTRICT OF THE STATE OF VIRGINIA,
City of Wheeling, ss:

On this 5th day November, 1862, before me, the subscriber, Hannibal Forbes, a commissioner of the district court of the United States for the western district of Virginia, personally appeared Andrew J. Sweeney, mayor of the city of Wheeling aforesaid, and made oath that the matters and things stated in the foregoing bill are true to the best of his knowledge, information, and belief; and also subscribed the same.

HANNIBAL FORBES, *Comm'r.*

Exhibit A.

BALTO., *Oct'r 7th*, 1862.

GENTLEMEN: As counsel of the city of Wheeling, one of your largest stockholders, I beg to call your attention to the recent action of the mayor and city council of Baltimore, claiming and exercising the power of appointing four additional directors on your board. My client is satisfied that the claim is wholly without foundation, and on its behalf, therefore, I respectfully request that you will take the proper legal proceedings to resist this groundless pretension. As the elections take place in November, I must ask your immediate action in the premises.

Yours, resp'ly,

J. MASON CAMPBELL.

To the PRESIDENT AND DIRECTORS of the
Balto. and Ohio Railroad Company.

12 BALTO., 31*st Oct'r*, 1862.

GENTLEMEN: On the 7th instant I addressed you a note on behalf of the city of Wheeling, and caused it to be delivered before the hour fixed for the October meeting of your board. I have received no answer as yet, and beg to say that unless you give me your reply very shortly, I shall be obliged to treat your silence as a refusal of what my note asks.

I am, very respec'ly,

J. MASON CAMPBELL.

To the PRESIDENT AND DIRECTORS of the
Balto. and Ohio Railroad Co.

And on the same day, to wit, the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-two, the writ of the United States of America of subpœna issued out of the circuit court here, directed to the said mayor and city council of Baltimore, the Baltimore and Ohio Railroad Company, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, in the words and of the tenor following, to wit:

Subpœna.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the mayor and city council of Baltimore, the Baltimore and Ohio Railroad Company, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, greeting:

13 [SEAL.] You are hereby commanded that, all excuses and delays set aside, you be and appear before the circuit court of the United States for the fourth circuit in and for the Maryland district, at the United States court-room in the city of Baltimore, on the first Monday in December next, to answer unto the bill of complaint of the city of Wheeling, in the said court exhibited against you. Hereof you are not to fail, as you will answer the contrary at your peril.

Witness the honorable R. B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-one.

J. M. C. Issued 10th November, 1862.
THO. SPICER, *Clk Circ't Ct.*

Marshal's return.

Summoned November 10th, 1862.
WASHINGTON BONIFANT,
U. S. Marshal.

And on the same day, to wit, the tenth day of November, in the year of our Lord one thousand eight hundred and sixty-two, the court here made and passed the following order, to wit:

Order of court.

THE CITY OF WHEELING
v.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, and others.

Ordered this 10th day of November, 1862, that the within
14 application for injunction be set down for hearing on the 17th day of November, provided a copy of this order be served on defendants on or before the 13th day of November inst.

WILLIAM F. GILES.

Marshal's return of service of copies of order.

Circuit court U. S. for Mary'nd district.

THE CITY OF WHEELING
v.
THE BALTO. AND OHIO RAILROAD CO. and others.

Copy of Judge Giles's order of the 10th day of November, 1862, in this cause, served on the 10th day of November, 1862, upon the mayor and city council of Baltimore, on the Baltimore and Ohio Railroad Company, on John A. Thompson, and upon John Denison, by delivering a copy of said order to said parties, respectively; and in like manner on the 11th, on Aaron Fenton, and in like manner on the 13th, on Henry S. Hunt.

WASHINGTON BONIFANT,
U. S. Marshal.

Afterwards, to wit, on the seventeenth day of November, in the year of our Lord one thousand eight hundred and sixty-two, the mayor and city council of Baltimore, by John L. Thomas, William Price, and William Schley. its solicitors, filed in the circuit court here its separate answer to the bill of complaint of the said city of Wheeling, in the words and of the tenor following, to wit:

15 *Answer of the mayor and city council of Baltimore.*

The separate answer of the mayor and city council, of Baltimore, under its corporate seal, and under the oath of the mayor of said city, to the bill of complaint of the city of Wheeling, in the circuit court of the United States in and for the fourth circuit and district of Maryland, against the said defendant, and the Baltimore and Ohio Railroad Company, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, in equity exhibited.

The said defendant, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, and other imperfections of said bill, nevertheless, for answer to the same, answers and says that it admits it to be true that the complainant is a municipal corporation, chartered by the State of Virginia, and is locally situated in the State of Virginia; and that this respondent is a municipal corporation, chartered by the State of Maryland, and locally situated in the State of Maryland. This respondent also admits the incorporation of the Baltimore and Ohio Railroad Company, one of the defendants to said bill, by the act of the general assembly of Maryland, passed at December session, 1826, chapter 123, mentioned in said bill, and which said act this respondent states was passed on the 28th day of February, 1827. But, in this connexion, this respondent states that

16 the provisions of said act, by the express terms thereof, were limited and confined to the property of the said company within the State of Maryland, and was not intended to have, and could

not legally have, any extra territorial operation or effect; and that afterwards, by an act of the general assembly of the State of Virginia, passed on the 18th day of March, 1827, (and wherein was recited at large, in words and figures, the said act of the general assembly of Maryland,) the same rights and privileges were granted to the said company within the territory of Virginia as by the said act of the general assembly of Maryland were granted to the said company within the territory of Maryland; and the same rights, privileges, and immunities, which by the said act of the general assembly of Maryland were reserved to the State of Maryland, or the citizens thereof, were by the said act of the general assembly of Virginia reserved to the State of Virginia, and her citizens. And this respondent, in this connexion, also states that the said company, under the sanction of acts of the general assembly of Virginia, and which were accepted by said company as a part of its charter, constructed a large portion, and, indeed, the larger portion, of its road within the territorial limits of the State of Virginia; that said company is the sole owner of the entire property and effects of the Winchester and Potomac Railroad Company, a corporation created by and existing under certain laws of the Sate of Virginia, and of the property and effects of which said last mentioned, the Baltimore and Ohio Railroad Company became the owners, under the sanction and in compliance
17 with the exigency of certain laws of the State of Virginia, accepted by the said Baltimore and Ohio Railroad Company as a part of its charter; that the said Baltimore and Ohio Railroad Company is also the lessee and the substantial owner of the entire property and effects of the Northwestern Virginia Railroad Company, a corporation created by the State of Virginia, and whose works, improvements, railroad, and property, are exclusively within the territorial limits of the State of Virginia, and of which the said Baltimore and Ohio Railroad Company became such lessee and owner, under the sanction of laws of the State of Virginia; that the State of Virginia, as this respondent has been informed and believes, is one of the stockholders of the Baltimore and Ohio Railroad Company; and whilst this respondent admits that the principal office of the Baltimore and Ohio Railroad Company is in the city of Baltimore, has many offices at different points in the State Virginia, and owns and holds very considerable property, and has established and maintains a very important office within the corporate limits of the city of Wheeling.

And whilst this respondent has no desire to decline the jurisdiction of this honorable court on constitutional grounds, yet it is advised that it is proper that the above facts should be pleaded for the information of this honorable court; and this respondent submits to the decision of this honorable court the question whether complainant, being itself a corporation created by and existing under the
18 laws of the State of Virginia, can, in its capacity as a stockholder of the Baltimore and Ohio Railroad Company, maintain this suit, and for the object thereby sought to be attained in this honorable court.

Further answering, this respondent admits it to be true that this respondent did subscribe for 5,000 shares of the capital stock of the Baltimore and Ohio Railroad Company under the authority of the said act of the general assembly of Maryland, passed at December session, 1826, chapter 123, and in virtue of said ordinance approved on the 20th of March, 1827 ; and it also admits that afterwards this respondent did subscribe for 30,000 shares of the capital stock of said company under the authority of the said act of the general assembly of Maryland, passed at December session, 1835, chapter 127, and in virtue of said ordinance approved 17th March, 1836.

Further answering, this respondent admits, that on the 17th day of December, 1856, the Baltimore and Ohio Railroad Company declared an extra dividend of 30 per cent. on the capital stock of said company, to be paid on or after the 12th day of January, 1857, to all stockholders owning stock on the 22d day of December, 1856, in certificates of indebtedness bearing interest, and convertible as stated in said bill.

Further answering, this respondent states that it does not know the number of shares of the stock of said company existing on the 22d day of December, 1856; nor does it admit the averment in that
19 behalf of said bill. Nor does this respondent know how many shares of the capital stock of said company were held on said last-mentioned day by the private stockholders of said company; nor does this respondent admit the averment in that behalf of said bill; but this respondent admits it to be true that on said last-mentioned day this respondent was the owner and holder of 35,000 shares, and of no other shares of said stock.

In this connexion, however, this respondent states that it had owned, at a former period, other shares of stock of said company, over and above, and in addition to, said 35,000 shares; but which said other shares this respondent had disposed of, by sales thereof, prior to said 22d December, 1856. And this respondent states, as a part of its answer to said bill, that in the month of December, 1855, this respondent, being then the owner of a number of shares of stock, to wit, upwards of 2,500, and less than 3,000, over and above the said number of 35,000 shares, appointed, in proper form, a director on the part of this respondent to represent said additional shares, as one of the directors in said company on the part of this respondent, in addition to the eight directors in said company on the part of this respondent to which this respondent was entitled under its said subscriptions for 35,000 shares, and that said director was accredited and received as a director in said company on the part of this respondent without any objection whatever, whereby this re-
20 spondent, during its ownership of said additional shares, had a representation in fact of nine directors on the part of this respondent in said company, and continued to have such representation of nine directors on the part of this respondent in said company until, by the sale by this respondent of said additional shares, the stock held in said company by this respondent was reduced to 35,000 shares, and thereafter, until recently, this respondent did not claim to be entitled to and had not any larger representation than

eight directors in said company, being the number of directors to which this respondent was and is entitled under its said subscription for 5,000 shares and 30,000 shares, respectively.

Further answering, this respondent states that it is true that a certificate for said extra dividend was delivered to this respondent for the amount of such dividend accruing in right of this respondent on said 35,000 shares, and that afterwards, on the day in that behalf stated in said bill, to wit, on the 26th day of June, 1862, the said certificate, pursuant to its terms, was converted into stock of the Baltimore and Ohio Railroad Company, and this respondent received from said company, in lieu of said certificate for said extra dividend, two several certificates for stock, both dated on said last-mentioned day, one of them being a certificate (No. 29,782) for 5,000 shares of said capital stock, and the other being a certificate (No. 29,783) for 5,500 shares of said capital stock, making together the aggre-
21 gate number of 10,500 shares, and both of which said last-mentioned certificates, ever since their date, have been and still are owned by this respondent in addition to said 35,000 shares aforesaid.

Further answering, this respondent states that it was heretofore advised, and is now further advised, and respectfully insists, that, as owner of said 10,500 shares of stock, it was and is entitled, under the terms of said act of 1836, (ch. 123,) to four directors in said company on the part of this respondent, and in addition to the eight directors in said company to which it was and is entitled as owner of the said 35,000 shares, for which it had subscribed as aforesaid.

And this respondent states, that in the exercise of a supposed right, considered clear and unquestionable, and in performance of a plain duty, this respondent did, on the days in that behalf stated in said bill, appoint in due and proper form four additional directors in said company on the part of this respondent, namely, the four persons named in that behalf in said bill. And this respondent respectfully insists that said four persons, all and each of whom have duly accepted their said appointment as directors, are entitled to be recognized and received, and to be allowed to act as directors in said company on the part of this respondent.

Further answering, this respondent states that it does not know, whether the said Baltimore and Ohio Railroad Company intends or does not intend to take part in this controversy with the private stockholders and as the said averment, as it is conceived, is
22 an immaterial averment, it is not deemed necessary to aver the same on the basis of information and belief.

Further answering, this respondent says, that it admits that the complainant is one of the stockholders of said company. This respondent has knowledge of the fact that said complainant subscribed for 5,000 shares of said stock in virtue of an agreement between the said complainant and said company, whereby the said complainant, as a consideration in full for said subscription, secured to itself the western terminus of said railroad. When and how the complainant acquired the additional 970 shares of which it claims to be the owner,

this respondent is not advised. It is a mere conjecture that it is parcel of the stock which accrued to the said complainant from the conversion of the certificate for its extra dividend into stock.

Further answering, this respondent states that it does not know what are the present number of shares of stock in the Baltimore and Ohio Railroad Company, nor what number of said shares are owned by private stockholders, nor the number of persons who are private stockholders in said company. This respondent does not admit the averments as to those matters of said bill.

Further answering, this respondent states that the charge that this respondent fraudulently appointed said additional four directors, or appointed them in fraud of the supposed rights of the complainant, or of the other private stockholders, or that such appointments were fraudulently made in any way, or in any sense, are unfounded charges and false pretences. As already stated, said
23 appointments were made in the exercise of a supposed legal right, and in performance of a supposed plain duty, and this respondent respectfully insists that said appointments were rightfully and validly made.

And this respondent asks leave to read from the printed acts of assembly of Maryland, published by the authority of said State, and from the printed acts of the general assembly of Virginia, published by the authority of said last-mentioned State, all acts of assembly passed by said States, respectively, relating to the Baltimore and Ohio Railroad Company, and accepted by said last-mentioned company, so far as applicable to any of the matters or questions in controversy in this case; and also, such of the ordinances of the city of Baltimore as may have any material bearing upon any of the matters in controversy in this cause. This respondent does not admit the construction of said acts of Maryland of 1826 and 1835 as set forth in said bill to be true construction thereof; and this respondent submits the same for just construction to this honorable court.

Further answering, this respondent states that all private stockholders who acquired stock in virtue of said extra dividend are recognized by the Baltimore and Ohio Railroad Company as unquestioned stockholders in said company, and as entitled to all the rights and privileges of other stockholders; and if this respondent shall be debarred from appointing directors to represent its said 10,500 shares of stock aforesaid, then the said shares will be the only
24 stock in said company without representation in the direction of said company.

In the original declaration of the extra dividend, made on the 17th December, 1856, in the certificate of indebtedness issued therefor, and in the certificates for stock issued by said company on the conversion of said certificates into stock, no condition or provision was inserted, nor any intimation given, that the stock to be issued on said conversion, and actually issued on such conversion, should be less than other stock, or be without the rights, privilege, and immunities of other stock, or that the owners of such stock should have less rights, in any respect, than the owners of other stock in said company.

Further answering, this respondent says that there is no charge or pretence in said bill of any fraud on the part of the Baltimore and Ohio Railroad Company; nor any charge or pretence of any collusion on the part of said company, or of its officers or agents, with this respondent or any of its officers or agents, or with any stockholder or stockholders of said company; and this respondent is advised and insists that no cause is shown, nor any sufficient reason stated, why the said complainant, in its capacity as a stockholder of said company, should be permitted to maintain this suit. There is no allegation of danger of irreparable damage, nor other special ground for relief set forth in the bill; and as the only question presented by the bill relates to the title of the four persons named in the said bill,
25 appointed additional directors in said company on the part of this respondent; and which, as this respondent suggests, is a dry legal question, and for the decision of which, a proceeding by mandamus would be the appropriate remedy by the laws of Maryland, and a quo warranto by the common law. The case presented by the bill is not a case within the proper jurisdiction of this honorable court as a court of equity; nor a proper case for the issuing of an injunction as prayed in and by said bill.

Without that, that there is any other matter or charge in the said bill contained necessary or material to be answered unto, and not herein, and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true.

All which matters and things this respondent is ready to aver, maintain, and prove, as this honorable court may direct.

And this respondent prays hence to be dismissed with its reasonable costs in this behalf most wrongfully sustained.

[Corporate seal.]

J. L. THOMAS,
WM. PRICE,
WM. SCHLEY,
Sol'c'rs for Respondent.

THE UNITED STATES OF AMERICA,
District of Maryland, set:

On this 17th day of November, 1862, before the subscriber, a commissioner of the circuit court of the United States in and for the fourth circuit and district of Maryland, personally appeared
26 John Lee Chapman, mayor of Baltimore city, and made oath on the Holy Evangely of Almighty God, that the facts set forth in the foregoing answer are true.

JOHN HANAN, *U. S. Comm'r.*

Afterwards, to wit, on the 3d day of December, in the year of our Lord one thousand eight hundred and sixty-two, the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, by William Price, John L. Thomas, and William Schley, their solicitors, file in the circuit here their joint and separate answer to the bill of complaint of the said city of Wheeling, in the words and of the tenor following, to wit:

Answer of Jno. A. Thompson and others.

In the circuit court of the United States for the fourth circuit and dist. of M'd.

THE CITY OF WHEELING
vs.
THE MAYOR AND CITY COUNCIL OF BALTO., JOHN A. THOMPSON, HENRY S. HUNT, *et al.*

The joint and separate answer of John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison to the bill of complaint of the city of Wheeling, in the circuit court of the United States in the fourth circuit of Maryland against these respondents and the mayor and city council of Baltimore, and the Baltimore and Ohio Railroad Company.

These respondents, saving to themselves all joint exceptions to the jurisdiction of this court, and to the substance and form of said
27 bill, answer and say, that they have read the answer of their co-defendant, the mayor and city council of Baltimore, and they adopt the statements and defences therein set forth as their answer to said bill.

And these respondents, averring the truth of all and singular the statements of said answer, and relying upon all the defences therein stated and suggested, pray that the same may be accepted and received as their answer to said bill, and that this answer may have the same effect, as an answer to said bill, as if the said statements were herein repeated, and said defences were herein set forth, denying all fraud, charged or insinuated in and by said bill. And these respondents pray that they may be hence dismissed with costs, &c.

WM. PRICE,
Attorney for Respond't's.
JOHN L. THOMAS, JR.,
City Counsellor.
WM. SCHLEY,
Solicitor for Respondt's.

UNITED STATES OF AMERICA,
District of Maryland, ss:

I hereby certify that on this 2d day of December, 1862, before the subscriber, a commissioner of the United States in and for the fourth circuit and district of Maryland, personally appeared John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, and made oath in due form of law that the several matters and things stated in the above joint and several answer are true as therein stated, to
28 the best of their knowledge and belief, and that which is stated from the information of others they severally believe to be true.

Sworn before me,

JOHN HANAN, *U. S. Com'r.*

Afterwards, to wit, on the eighth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the circuit court here made and passed the following order, to wit:

Order of court granting injunction.

Ordered, this eighth day of December, 1862, after notice to the defendants, and on the coming in of all the answers, except that of the Baltimore and Ohio Railroad Company, and after full argument by counsel for the city of Wheeling, the *the* city of Baltimore, and for the parties claiming to be entitled to seats as directors, that the injunction prayed for by the within bill, be, and the same is hereby, granted as prayed for.

WILLIAM F. GILES.

Afterwards, to wit, on the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the writ of the United States of America of injunction issued out of the circuit court here, directed to the mayor and city council of Baltimore, the Baltimore and Ohio Railroad Company, and to John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, in form fol-
29 lowing, to wit:

Writ of injunction.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the mayor and city council of Baltimore, a municipal corporation established and chartered by the State of Maryland, the Baltimore and Ohio Railroad Company, a body politic incorporated by the State of Maryland, and to John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, citizens of the State of Maryland, greeting:

Whereas the city of Wheeling, a municipal corporation established and chartered by the State of Virginia, hath lately exhib-
[SEAL] ited its bill of complaint against you in the circuit court of the United States for the fourth circuit in and for the Maryland district for relief in equity, we, having regard to the matters and things set forth in the said bill, do hereby strictly command and enjoin you, the said mayor and city council of Baltimore, not to appoint any persons as directors of the said company for, or on behalf, or in virtue of the stock in said company acquired by you as and for a dividend under the resolution of said company passed on the 17th day of December, 1856, known as the extra dividend resolution, and that you, John A. Thompson, you, Henry S. Hunt, you, Aaron Fenton, and you, John Deni-
30 son, be, and are hereby, enjoined from taking your seats as directors of the said company at the board of the Baltimore and Ohio Railroad Company, or acting or claiming to act in any way as such directors by virtue of the appointment heretofore made, or that may

be made, by the said mayor and city council of Baltimore for, or in behalf, or in virtue of the stock in said company acquired by said mayor and city council of Baltimore as and for a dividend under the extra dividend resolution aforesaid, and that you, the said Baltimore and Ohio Railroad Company, be, and you are hereby, enjoined from permitting the persons last aforesaid, or any other persons, from taking seats at your board, or acting as directors in any way, under any appointment heretofore made, or that may hereafter be made, by the said mayor and city council in virtue of the stock aforesaid, until the further order of the court in the premises. Witness the honorable R. B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-two.

Issued 13th December, 1862.

THO. SPICER,
Cl'k Circ't C't.

Marshal's return.

"Served.

"WASHINGTON BONIFANT, *U. S. Marshal.*"

And on the twelfth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the Baltimore and Ohio Railroad Company, by John H. B. Latrobe, its solicitor, filed in the
31 circuit court here its answer to the bill of complaint of the city of Wheeling, in the words following, to wit :

Answer of the Balto. and Ohio Railroad Co.

THE CITY OF WHEELING
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE and others.

The answer of the Baltimore and Ohio Railroad Company, a corporation created by the State of Maryland, and having its principal office and place of business in the city of Baltimore, to the bill of complaint of the city of Wheeling, a municipal corporation created by the State of Virginia, and situated therein, filed against said company and others:

This respondent, to so much of said bill as it is advised it is material it should make answer unto, answers and saith :

That it admits the incorporation of this defendant as alleged in said bill of complaint, and that, by the 7th section of the charter, the city of Baltimore was authorized to subscribe for 5,000 shares of the capital stock of this defendant, which subscription was made accordingly.

That by an act of the general assembly of Maryland, passed in the year 1835, ch. 127, the said city of Baltimore was authorized to subscribe, and did accordingly subscribe, 30,000 additional shares to said stock.

That the two subscriptions here referred to, amounting to
32 35,000 shares, are all the stock ever subscribed for by the said city in the said company.

That on the 17th day of December, 1856, this respondent declared the extra dividend of 30 per cent. referred to in said bill, payable to all stockholders who were such on the 22d December, 1856, in manner and form as alleged.

That the whole number of shares in the capital stock of this respondent on the 22d December, 1856, was 101,102 shares, of which number the private stockholders held 59,246, and that on the same day the city of Baltimore held no other stock than the 35,000 shares subscribed for as aforesaid.

That the certificate for the extra dividend belonging to said city on its 35,000 shares aforesaid was delivered to it, and on the 26th day of June, 1862, it converted said certificate into stock of said company, representing at par $1,050,000, and the said last mentioned stock was not acquired in any other way than as a dividend on the said 35,000 shares.

That the provisions of the 2d section of the charter authorized the city of Baltimore aforesaid to appoint one director for every 2,500 shares of stock owned by it at the time of the election of directors, and that in virtue of its subscription for 5,000 shares under the charter it appointed in 1827, and has ever since continued to appoint, two directors in said company.

That by the act aforesaid, of 1835, ch. 127, the city of Baltimore was authorized to appoint the additional directors mentioned in said bill, and has, since 1836, exercised the authority and made the appointment accordingly.

33 That on the 2d and 3d October, 1862, the said city, claiming that it was entitled to appoint four additional directors in virtue of the dividend stock aforesaid, appointed as such the parties named in said bill; and that *and that* no claim has been set up to an increase of directors in virtue of the ownership of said dividend stock, except by said city. That this respondent has received from the council of the city of Wheeling the two notes made exhibits of said bill of complaint, and that it has respectfully declined to accede to the request contained in the first of said notes. That the complainant is the owner of 5,970 shares of the stock of said company, of the par value of $100 each, and that the whole number of shares of stock in said company, at the time of filing the bill, was 130,417, of which the private stockholders, numbering between 600 and 700, owned and held 76,005. And in verification of the foregoing answer, this respondent hath directed its corporate seal to be hereto affixed, and the president of the said company to sign the same, and to make affidavit thereto, according to the requisition of the said bill of complaint.

{ Corporate seal. }

J. W. GARRETT,
President

STATE OF MARYLAND,
City of Baltimore, to wit:

Be it remembered, that on this tenth day of December, 1862, before the subscriber, a justice of the peace of the State of Maryland, in and for the city of Baltimore aforesaid, personally appeared
34 John W. Garrett, president of the Baltimore and Ohio Railroad Company, and made oath according to law that the matters set forth in the above and foregoing answer are just and true, to the best of his knowledge and belief.

JNO. SHEWACRE.

And on the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the City of Wheeling, by its solicitors aforesaid, filed in the circuit court here its replication to the several answers of the several defendants, in the words following, to wit:

Replication.

In the circuit court of the United States for Maryland district.

THE CITY OF WHEELING
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, the Baltimore and Ohio Railroad Company, John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison. } In equity.

The City of Wheeling, complainant, to the several answers of each of the several defendants in this cause.

This repliant, saving and reserving unto himself all and all manner of exception to the manifold errors, uncertainties, and insufficiencies of each of the said answers of the said several defendants, for replication thereunto saith, that he doth and will ever maintain and prove his said bill to be true, certain, and sufficient
35 in law to be answered unto by the said defendants, and that the said answers of each of the said defendants are very uncertain, evasive, untrue, and insufficient to be replied to by this repliant; without this, that any matter or thing in the said answers contained, material or effective in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied; all which matters and things this repliant is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays, as in and by his said bill he has already prayed.

J. MASON CAMPBELL,
Compl't's Solicitor.

And on the same day, to wit, the thirteenth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the parties aforesaid, by their solicitors aforesaid, filed in the circuit court here an agreement in the words following, to wit:

Agreement.

In the circuit court of the United States in and for the fourth circuit and district of Maryland.

THE CITY OF WHEELING
vs.
THE MAYOR AND CITY COUNCIL OF BALTIMORE, the Baltimore and Ohio Railroad Company, and others. } In equity.

36 It is agreed that this case shall be submitted for final hearing on bill and answer, and the following agreement of facts:

1. It is admitted that the complainant, at the time of filing this bill, was the owner of the number of shares of stock claimed in the bill, as held by it as owner; and it is further admitted, that of the said number of shares, 970 shares, part thereof, was a portion of stock accruing from the extra dividend mentioned in said bill; the said complainant, in virtue of its ownership of the original subscription made by it for 5,000 shares, having received certificates of indebtedness, under said extra dividend, subsequently converted into 1,500 shares of stock, and of which the said complainant had disposed of 530 shares before the filing of this bill.

2. It is admitted that the whole number of shares of the capital stock of the Baltimore and Ohio Railroad Company, at the time of the filing of this bill, was the number stated in said bill, and which number includes the shares which accrued from the conversion into stock of the certificates of indebtedness, issued for said extra dividend. It is also admitted that the number of shares of stock held by private stockholders—that is, exclusive of the city of Baltimore and of the State of Maryland—is correctly stated in said bill, and that the number of private stockholders were upwards of 600. It is further admitted that the stock, as held on the 22d December, 1856, is correctly stated in said bill. It is also admitted that the exhibit A of said bill is a true copy of two letters on the respective days of their dates, and delivered to said company on the said days, or shortly
37 thereafter; and it is also admitted that no replies were made to said letters, or to either of them, up to the filing of this bill. It is further admitted that all laws of the State of Maryland contained in the statute-books and in the code, published by the authority of said State, relating to the Baltimore and Ohio Railroad Company or to the city of Baltimore, and all ordinances of the city of Baltimore, as printed by the authority of said city, relating to the Baltimore and Ohio Railroad Company, shall be read at the hearing of this cause, as if legally proved; and in case the same shall be carried to the Supreme Court of the United States, the same agreement shall apply. It is also agreed that all laws of the State of Virginia, relating to the city of Wheeling or to the Baltimore and Ohio Railroad Company, contained in the statute books of the laws of Virginia, printed by authority of said State, and all ordinances of the city of Wheeling, relating to the Baltimore and Ohio Railroad Company, contained in the ordinances of said city, published by authority of said city, may be read in like manner in this court and in the Supreme Court.

It is admitted that the persons named in that behalf in said bill as the four directors appointed on behalf of the city of Baltimore, on the basis of the said 10,500 shares of stock mentioned in said bill, were duly appointed on the days mentioned in that behalf in said bill, and that their said appointment was renewed and confirmed since the last election of directors on the part of the stockholders of the Baltimore and Ohio Railroad Company.

It is admitted that the Baltimore and Ohio Railroad Com-
38 pany is located for the distance of 151 miles within the territory of Maryland and for the distance of 228 miles in the territory of Virginia; and that its principal office is in the city of Baltimore, where the elections for its annual directors are held under its charter, and that it has many offices within Virginia, and an office in the city of Wheeling, as stated in said answer.

It is also admitted that the city of Baltimore appointed a director in 1855 in respect of stock then held by it (over and above the 35,000 for stock it had subscribed) to the number of upwards of 2,500 shares which had acrued to it as a stock dividend; and that said director took his seat at the board and acted as a director, whilst the city of Baltimore continued to hold said stock, which was less than the term of one year. It is also admitted that his right to a seat was conceded sub silentio.

REVERDY JOHNSON,
J. MASON CAMPBELL,
Comp't's Solic'rs.
WM. PRICE,
WM. SCHLEY,
For the City of Balto., and for Fenton, Hunt, Thompson, and Denison.
JNO. H. B. LATROBE,
For Balto. and Ohio Railroad Co.

And now here, at this day, to wit, the fifteenth day of December, in the year of our Lord one thousand eight hundred and sixty-two, the circuit court here made and passed a final decree in this case, in form following, to wit:

39 *Final decree.*

In the circuit court U. S. for the Md. district.

The City of Wheeling. *vs.* The Mayor and City Council of Baltimore, the Baltimore and Ohio Railroad Company, and others.	In equity.

The above case standing ready for final hearing, and being submitted upon the bill, answers, replications, and agreement of facts filed, and other proceedings, was considered; whereupon it is ordered, this 15th day of December, in the year 1862, by the authority of this court, that the injunction heretofore granted be, and the same is hereby, made perpetual; and that the said mayor and city council of

Baltimore be, and they are hereby, enjoined not to appoint any persons as directors of the said company for or in behalf, or in virtue of the stock in said company, acquired by the said city as and for a dividend under the resolution of said *said* company, passed on the 17th day of December, 1856, known as the extra dividend resolution; and that the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison be, and they are hereby, enjoined from taking their seats as directors of the said company at the board of the Baltimore and Ohio Railroad Company, or acting, or claiming to act, in any way as such directors, by virtue of the appointment heretofore made, or that may be made, by the said mayor and city council, for or in behalf, or in virtue of the stock in said company, acquired by said mayor and city council as and for a dividend under the extra
40 dividend resolution aforesaid; and that the said Baltimore and Ohio Railroad Company be, and it is hereby, enjoined from permitting the persons last aforesaid, or any other persons, from taking seats at its board, or acting as directors in any way under any appointment heretofore made, or that may hereafter be made, by the said mayor and city council, in virtue of the stock aforesaid.

And it is ordered and decreed that the mayor and city council of Baltimore pay the costs of this case, to be taxed by the clerk.

WILLIAM F. GILES.

From which said decree, so as aforesaid passed, the said mayor and city council of Baltimore, and John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, by their solicitors aforesaid, prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, and to them it is granted.

Thereupon it is ordered by the court here that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court, and the same are hereby transmitted accordingly.

Appeal bond.

Know all men by these presents, that we, the mayor and city council of Baltimore, John A. Thompson, Henry S. Hunt, Aaron Fenton,
41 John Denison, and Samuel Maccubbin, are held and firmly bound unto the city of Wheeling, a municipal corporation, established and chartered by the State of Virginia, and situate therein, in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said city of Wheeling, its certain attorney, successors or assigns; to which payment well and truly to be made and done, we hereby bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this ——— day of January, in the year of our Lord one thousand eight hundred and sixty-three.

Whereas at a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of ou

Lord one thousand eight hundred and sixty-two, the said circuit court made and passed the following decree, to wit:

"The above case standing ready for final hearing, and being submitted upon the bill, answers, replication, and agreement of facts filed, and other proceedings, was considered; whereupon it is ordered, this 15th day of December, in the year 1862, by the authority of this court, that the injunction heretofore granted be, and the same is hereby, made perpetual, and that the said mayor and city council of Baltimore be, and they are hereby, enjoined not to appoint any persons as directors of the said company for, or in behalf, or in virtue of the stock in said company, acquired by the said city as and for a dividend under the resolution of said company passed on the
42 17 day of December, 1856, known as the extra dividend resolution; and that John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison be, and they are hereby, enjoined from taking their seats as directors of the said company at the board of the Baltimore and Ohio Railroad Company, or acting, or claiming to act, in any way as such directors by virtue of the appointment heretofore made, or that may be made, by the said mayor and city council, for, or in behalf, or in virtue of the stock in said company, acquired by the said mayor and city council as and for a dividend under the extra dividend resolution aforesaid; and that the said Baltimore and Ohio Railroad Company be, and it is hereby, enjoined from permitting the persons last aforesaid, or any other persons, from taking seats at its board, or acting in any way, under any appointment heretofore made, or that may hereafter be made, by the said mayor and city council, in virtue of the stock aforesaid; and it is further ordered and decreed that the mayor and city council of Baltimore pay the costs of this case, to be taxed by the clerk."

From which said decree, so as aforesaid passed, the mayor and city council of Baltimore, and the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison, by their solicitors aforesaid, have prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next.

Now, the condition of the above obligation is such, that if the said mayor and city council of Baltimore, the said John A. Thompson, Henry S. Hunt, Aaron Fenton, and John Denison shall well
43 and truly prosecute their said appeal with effect, and pay unto the said city of Wheeling, its certain attorney, successors, or assigns, the costs and charges adjudged unto it by the said circuit court, and also all such damages, costs, and charges as may be awarded unto it by the said Supreme Court, in case they shall fail to to make good their said appeal, then the above obligation to be void, and of none effect, otherwise to be in full force and virtue in law.

[Corporate Seal.]

JOHN LEE CHAPMAN, *Mayor.*
JOHN A. THOMPSON. [SEAL.]
A. FENTON. [SEAL.]
HENRY S. HUNT. [SEAL.]
JNO. M. DENISON, [SEAL.]
SAM'L MACCUBBIN. [SEAL.]

In testimony that the foregoing is a true copy, taken from the record and proceedings of the circuit court aforesaid, I here-
[SEAL.] unto subscribe my name, and affix the seal of the said circuit court, this ninth day of February, in the year of our Lord one thousand eight hundred and sixty-three.

H. W. SPICER,
Cl'k Circ't C't.

Filed January 2, 1863.